



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 24, 1995

Ms. Mitzi Cotton
Assistant City Attorney
City of Austin
P.O. Box 1088
Austin, Texas 78767-1088

OR95-689

Dear Ms. Cotton:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 33109.

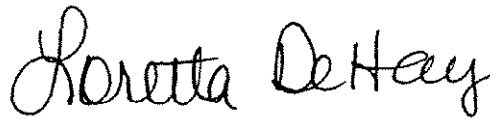
The City of Austin (the "city") received a request for documentation revealing the name, address, and phone number of a contractor who complained that a particular company was violating a city clean air ordinance. You claim that the information is excepted under section 552.101 of the Government Code in conjunction with the informer's privilege. You have provided a sample copy of a responsive document for our review, which you claim cannot be redacted to protect the identity of the complainant without rendering the entire document meaningless. Thus, you seek to withhold the document in its entirety.

The informer's privilege protects the identity of persons who report violations of the law to officials having the duty of enforcing particular laws. *See Roviario v. United States*, 353 U.S. 53, 59 (1957). The informer's privilege does not, however, apply to information that does not describe illegal conduct. Open Records Decision No. 515 (1988) at 5. Furthermore, once the identity of the informer is known to the subject of the communication, the exception is no longer applicable. Open Records Decision No. 202 (1978) at 2. Significantly, however, the informer's privilege protects the content of the communication only to the extent that it identifies the informant. *Roviario*, 353 U.S. at 60.

In this case, it is clear that the requestor is unaware of the identity of the complainant. Additionally, the complainant is reporting the violation of a city ordinance, to the department within city government that enforces the ordinance. Therefore, you may withhold the identity and information which would tend to reveal the identity of the complainant pursuant to section 552.101 of the Government Code in conjunction with the informer's privilege. For your convenience we have marked the information you may withhold. You must, however, release the remainder of the document, because it does not tend to reveal the informer's identity.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Loretta DeHay". The signature is written in a cursive, flowing style.

Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/LMM/rho

Ref.: ID# 33109

Enclosures: Marked document

cc: Mr. Thomas G. Tucker
Sutherland, Asbill & Brennan
111 Congress Avenue
Twenty-third Floor
Austin, Texas 78701-4079
(w/o enclosures)